

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-1040V

Filed: May 19, 2015

Unpublished

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ROBERTA LIVOLSI,	*	
	*	
Petitioner,	*	Damages Decision Based on Proffer;
	*	Influenza; Shoulder Injury Related to
	*	Vaccine Administration ("SIRVA");
SECRETARY OF HEALTH	*	Special Processing Unit ("SPU")
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
	*	

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*Meredith Daniels, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for petitioner.*  
*Camille Collett, U.S. Department of Justice, Washington, DC for respondent.*

### **DECISION AWARDING DAMAGES**<sup>1</sup>

**Vowell**, Chief Special Master:

On October 27, 2014, Roberta Livolsi filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> [the "Vaccine Act" or "Program"]. Petitioner alleges that she suffered a shoulder injury related to vaccine administration ("SIRVA"). Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 22, 2015, I issued a ruling on entitlement, finding petitioner entitled to compensation for her SIRVA. On May 18, 2015, respondent filed a proffer on award of compensation ["Proffer"] indicating petitioner should be awarded \$75,000.00. Proffer at 1.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

Pursuant to the terms stated in the attached Proffer, **I award petitioner a lump sum payment of \$75,000.00 in the form of a check payable to petitioner, Roberta Livolsi.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**s/Denise K. Vowell**  
Denise K. Vowell  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

ROBERTA LIVOLSI,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 14-1040V

Chief Special Master Denise Vowell  
ECF

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

On January 22, 2015, respondent filed her Rule 4(c) Report, in which she conceded entitlement. On January 22, 2015, the Court issued a Ruling on Entitlement, finding that petitioner is entitled to compensation. Respondent now proffers that petitioner receive an award of a lump sum of **\$75,000.00** in the form of a check payable to petitioner. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled. This proffer does not address final attorneys' fees and litigation costs. Petitioner is additionally entitled to reasonable attorneys' fees and litigation costs, to be determined at a later date upon petitioner submitting substantiating documentation.

Petitioner agrees with the proffered award of \$75,000.00.

Respectfully submitted,

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Director  
Torts Branch, Civil Division

VINCENT J. MATANOSKI  
Deputy Director  
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s/CAMILLE M. COLLETT  
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Dated: May 18, 2015